

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-cv-000180-MR**

LONNIE DOUGLAS SIMMONS,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
)	
CLEVELAND COUNTY MEDICAL,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on its review of the docket in this matter.

On July 18, 2023, Plaintiff filed this action under 42 U.S.C. § 1983. [Doc. 1]. The Clerk promptly mailed Plaintiff an Order of Instructions [Doc. 3] and a copy of the Order for Prisoner Trust Account Statement [Doc. 4] at his address of record in this matter at the Cleveland County Jail, 100 Justice Place, Shelby, North Carolina, 28150. [Docs. 3, 4; see 7/19/2023 (Court Only Docket Entries)]. On July 28, 2023, these documents were returned to the Court as undeliverable. The envelope was marked “RETURN TO SENDER[;] NOT IN JAIL.” [Doc. 5 at 1]. As of this Order, Plaintiff has not notified the Court of a new address.

Plaintiffs have a general duty to prosecute their cases. In this regard, a pro se plaintiff must keep the Court apprised of his current address. See Carey v. King, 856 F.2d 1439, 1441 (9th Cir. 1988) (“A party, not the district court, bears the burden of keeping the court apprised of any changes in his mailing address.”). Where a pro se plaintiff has failed to notify the Court of his change of address, the action is subject to dismissal without prejudice for failure to prosecute. Accord Walker v. Moak, Civil Action No. 07-7738, 2008 WL 4722386 (E.D. La. Oct. 22, 2008) (dismissing without prejudice a § 1983 action for failure to prosecute under Rule 41(b) of the

Federal Rules of Civil Procedure where the plaintiff did not notify the court of his new address upon his release from jail). Before dismissing this action for failure to prosecute, the Court will give Plaintiff fourteen (14) days in which to notify the Court of his updated address.

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff has fourteen (14) days from this Order to notify the Court of his new address. Plaintiff's failure to timely notify the Court will result of dismissal of this action without prejudice and without further notice to Plaintiff.

Signed: August 1, 2023



Graham C. Mullen
United States District Judge

